

REMARKS

Consistent with the Office Action of January 26, 2005, and a telephone conversation between the undersigned and Examiner Owens, certain claims have been cancelled and other claims amended to reflect the elected claims and elected species of those claims. The pending claims are 1, 8, 11-15 and 22-24. Cancelled claims 2-7, 10, 16-21, and 25-56 are withdrawn from consideration and cancelled.

Information Disclosure Statement

Applicant appreciates the fact that the IDS filed November 17, 2003 has been considered and initialed by the Examiner.

Claim Rejections — 35 U.S.C. Section 112

The Examiner has objected to the claims under the second paragraph of 35 U.S.C. Section 112 suggesting that the claims are self-conflicting “because the claims are drawn to pharmaceutical compositions without a dosage limitation.” The Examiner’s attention is directed to Claim 22 which has been amended to indicate a therapeutically effective amount of the compound of Claim 1 is combined with an excipient to form the composition. This amendment should meet the paragraph 1 objection.

The Examiner has rejected Claim 24 under 35 U.S.C. 112 first paragraph as failing to comply with the enablement. Claim 24 has been amended to indicate that the method is for treating breast cancer in a patient. Support for treating breast cancer can be found in the specification and page 16 of the specification in Table A at the fourth line from the bottom of the page. Support can also be found at page 17, paragraph 59, line 2 of that paragraph, where it is referred to the treatment of mammary tumors. Further support can be found in the table at page 51 of the application in looking at the in vivo efficacy, for example, of compound number 3061 in the mammary adino carcinoma test. Thus, the Claim, as presented at this time, is limited in its scope to the treatment of breast cancer, which is fully supported in the specification of the

positions indicated. While applicant does not agree with the rejection under 112, the scope of the Claim is reduced at this time to progress the prosecution of this case

The Examiner's attention is drawn to the presence of original claims 1 and 11-13, where R₁ is an "optionally substituted 5-membered heterocycle..." specific exemplary support is formed at Example 13 with generic support found at page 6, paragraph 0025. Although the Examiner indicated that claims 11-13 would be withdrawn, reinstatement is respectfully requested, consistent with the telephone conversation between Examiner Owens and the under signed on May 2, 2005.

It is respectfully submitted that claims 1, 8, 11-15, and 22-24 as amended are now in position for allowance and an early action in this case is requested.

It should be noted that in withdrawing the claims from consideration and canceling certain claims, applicant is not giving up his right to preserve the subject matter that is supported in the specifications and claims of the application as filed. Applicant is simply expediting prosecution in this case to accelerate the granting of a patent. Applicant reserves the right to file a continuing application to any subject matter in a separately filed application.

If the Examiner believes that a telephone conversation would further expedite prosecution of this case, she is invited to call the undersigned attorney at his new telephone number of (650) 251-1142.

Respectfully submitted,

Date

May 6, 2005

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